

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

CARL L. CRUZ,

Plaintiff,

v.

COMMISSIONER OF SOCIAL SECURITY,

Defendant.

Case No. C21-1454-DGE

**ORDER GRANTING REVISED
STIPULATED MOTION FOR
ATTORNEY FEES**

This matter comes before the Court on the parties' revised stipulated motion for attorney fees pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412. Dkt. 22.

The Court previously granted the parties' prior stipulated motion and awarded Plaintiff \$6,957.10 in attorney fees on July 13, 2022. Dkt. 20. On July 25, 2022, Plaintiff withdrew the motion due to a calculation error (Dkt. 21.) and filed a revised stipulated motion with the corrected attorney fees. Dkt. 22.

The motion is timely as Plaintiff had a 60-day appeal period, plus the 30-day period in §2412(d)(1)(B), from the entry of final judgement on April 18, 2022 to file a timely EAJA application. *Akopyan v. Barnhart*, 296 F.3d 852 (9th Cir. 2002); *Melkonyan v. Sullivan*, 501 U.S. 89, 94–96 (1991); Fed. R. App. P. 4(a). Furthermore, upon review of the stipulation and the record, the Court determines that Plaintiff is the prevailing party, the government's position was not substantially justified, and that the itemization of attorney time spent is reasonable. In short,

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1 the requirements of § 2412(d)(1)(B) are met.

2 Having thoroughly considered the parties' briefing and the relevant record, the Court
3 hereby GRANTS the revised motion and awards Plaintiff \$3,300 in attorney fees, subject to any
4 offset allowed under the Treasury Offset Program. *See Astrue v. Ratliff*, 560 U.S. 586, 589–90
5 (2010). Payment of EAJA fees shall be sent to Plaintiff's attorney by either EFT or check:
6 David Oliver at David Oliver & Associates, 2608 South 47th Street, Suite C, Tacoma, WA
7 98409. Pursuant to *Ratliff*, award shall be payable to Plaintiff's attorneys, David Oliver at David
8 Oliver & Associates, if the Commissioner confirms that Plaintiff owes no debt to the
9 Government through the Federal Treasury Offset program.

10 For the foregoing reasons, Plaintiff's revised stipulated motion for attorney fees is
11 GRANTED.

12 DATED this 26th day of July 2022.

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David G. Estudillo
United States District Judge